



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/544,158	10/14/2005	Michel Kubacki	052546-0480	8425
23524	7590	01/28/2009	EXAMINER	
FOLEY & LARDNER LLP			MAUST, TIMOTHY LEWIS	
150 EAST GILMAN STREET				
P.O. BOX 1497			ART UNIT	PAPER NUMBER
MADISON, WI 53701-1497			3751	
			MAIL DATE	DELIVERY MODE
			01/28/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/544,158	KUBACKI, MICHEL	
	Examiner	Art Unit	
	Timothy L. Maust	3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 30 September 2008.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-25 is/are pending in the application.
 4a) Of the above claim(s) 17-25 is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-6 and 10-16 is/are rejected.
 7) Claim(s) 7-9 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 01 August 2005 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/1/06</u> . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group (I), Claims 1-16, in the reply filed on 10/30/08 is acknowledged.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 recites the limitation "each column" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Specification

The abstract of the disclosure is objected to because not all of the reference numerals are in parenthesis. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Lamontagne (FR 2758188).

Regarding claim 1, the Lamontagne reference discloses a method of preparing samples for analysis, comprising injecting at least one liquid in individual columns of a movable plate (1) by means of at least one movable injection needle (7); and displacing said plate between at least two operational positions by displacing said at least one needle while said at least one needle is in a relationship of at least indirect mutual engagement with said plate (see Figures 1 and 2); characterized by said mutual engagement being performed between said needles and engagement formations outside said columns.

Regarding claim 2, said mutual engagement is realized between a tip (defined by tip of needle 7) of said needle and a recess which is in driving relationship with said plate (1).

Regarding claim 3, said mutual engagement is performed at different locations with respect to the plate (see Figures).

Regarding claim 4, said mutual engagement is performed between said tip (defined by tip of needle 7) and different recesses (3), respectively.

Regarding claim 5, said mutual engagement is performed between said needle and a carriage (9) supporting said plate, and the method further comprises causing the carriage to slide horizontally from one to the other of two underlying receptacles (see Figures).

Regarding claim 6, said mutual engagement being performed along an edge of said carriage which is transverse to a sliding direction of said carriage (see Figures).

Claims 10-16 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Fraudeau et al. (WO 00/50171).

Regarding claim 10, the Fraudeau et al. reference discloses a method of preparing samples for analysis comprising injecting a liquid in each column (4) while the columns are open upwardly; displacing said plate downwards into sealing engagement above an underlying receptacle (36); subjecting said receptacle to vacuum (11; see abstract) thereby to retain said plate in said sealing engagement and draw liquid from all said columns (4) into said receptacle through a stationary phase provided in said columns (4); and releasing said vacuum thereby to allow upward displacement of said plate out of said sealing engagement.

Regarding claim 11, said receptacle is a collect receptacle having wells respectively corresponding to each column (see Figure 1).

Regarding claim 12, said receptacle is a drain receptacle (38), and wherein after release of said vacuum, said plate is moved to a position above a collect receptacle,

and the steps of injecting a liquid, displacing the plate downwards into sealing engagement, drawing liquid from all said columns simultaneously and releasing said vacuum are reiterated above and in conjunction with said collect receptacle.

Regarding claim 13, at least one displacement of said plate is performed by bringing an injection needle into an at least indirect engagement with said plate and displacing said injection needle so as to drive said plate in said one displacement (see Figure 4)

Regarding claim 14, said engagement occurs between said needle and a carriage supporting said plate, for a horizontal displacement of said plate (see Figure 4).

Regarding claim 15, said engagement occurs between said needle and a plate-lowering means which is mounted above said plate (see Figures 3 and 4).

Regarding claim 16, injecting liquid comprises liquid-injection through apertures which are provided through said plate-lowering means in registration with some of the columns (see Figure 6).

Allowable Subject Matter

Claims 7-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited prior art pertains to various devices similar to Applicant's device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy L. Maust whose telephone number is (571) 272-4891. The examiner can normally be reached on Mon. - Thur. 7:00-5:30pm.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Timothy L Maust/
Primary Examiner
Art Unit 3751